

LOCATION-CUSTODY

**Eastern District of Washington  
U.S. District Court (Spokane)  
CRIMINAL DOCKET FOR CASE #: 2:13-mj-04346-JPH-1**

Case title: USA v. Stites

Date Filed: 11/15/2013

Other court case number: 04CR349-001-BR Oregon

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Assigned to: Magistrate Judge  
James P. Hutton

**Defendant (1)**

**John Timothy Stites**

represented by **Federal Public Defender – YAK**  
Federal Defenders – YAK  
Eastern Washington  
306 East Chestnut Avenue  
Yakima, WA 98901  
Email: [maria\\_deleon@fd.org](mailto:maria_deleon@fd.org)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or Community  
Defender Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level  
(Terminated)**

None

**Complaints**

18:13-7990.F SUPERVISED  
RELEASE PETITION

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**Disposition**

**Plaintiff**

USA

represented by **Alison L Gregoire**  
 United States Attorney's Office  
 402 E Yakima Avenue  
 Suite 210  
 Yakima, WA 98901  
 509-454-4425  
 Fax: 509-454-4435  
 Email: [alison.l.gregoire@usdoj.gov](mailto:alison.l.gregoire@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Assistant US Attorney*

Date Filed	#	Page	Docket Text
11/15/2013	<u>1</u>	3	RULE 5 DOCUMENTS RECEIVED from District of Oregon as to John Timothy Stites (1) (KW, Case Administrator) (Entered: 11/15/2013)
11/15/2013	<u>2</u>		NOTICE OF HEARING – By Court as to John Timothy Stites (1). Text entry; no PDF attached. Rule 5 Initial Appearance – Supervised Release Petition set for 11/18/2013 at 02:00 PM in Yakima before Magistrate Judge James P. Hutton. (PH, Case Administrator) (Entered: 11/15/2013)
11/15/2013	<u>3</u>	7	NOTICE OF ATTORNEY APPEARANCE Alison L Gregoire appearing for USA as to John Timothy Stites (1) (Gregoire, Alison) (Entered: 11/15/2013)
11/18/2013	<u>4</u>		Oral MOTION for Detention by USA as to John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>5</u>		ORDER APPOINTING FEDERAL DEFENDER as to John Timothy Stites (1). On the basis of the sworn financial statement, the court finds Defendant is financially unable to retain counsel. IT IS ORDERED the Federal Defenders of Eastern Washington are appointed to represent Defendant pursuant to Title 18 United States Code Sec. 3006A Appointed Federal Public Defender – YAK for John Timothy Stites – Text entry; no PDF document will issue. This text-only entry constitutes the court order on the matter. Signed by Magistrate Judge James P. Hutton. (KRR, Judicial Assistant) (Entered: 11/18/2013)
11/18/2013	<u>6</u>	8	Minute Entry for proceedings held before Magistrate Judge James P. Hutton: Initial Appearance in Rule 5 Proceedings as to John Timothy Stites (1) held on 11/18/2013. (Reported/Recorded by: FTR/Y-102) (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>7</u>	9	ORDER OF REMOVAL granting ECF No. 4 Motion for Detention (USM Action Required) as to John Timothy Stites (1). Signed by Magistrate Judge James P. Hutton. (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>9</u>	11	ACKNOWLEDGMENT OF NOTICE OF RIGHTS by John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>10</u>	13	ASSERTION OF FIFTH AND SIXTH AMENDMENT RIGHTS by John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)
11/18/2013	<u>11</u>	14	WAIVER of Rule 5 Hearings by John Timothy Stites (1). (PH, Case Administrator) (Entered: 11/18/2013)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, )  
                                  )  
Plaintiff,                 )  
                                  )       No. MJ-13-4346-JPH  
vs.                            )  
JOHN TIMOTHY STITES,     )  
                                  )  
Defendant.                 )  
                                  )  
\_\_\_\_\_

Received Rule 5 papers from the United States District Court,  
District of Oregon

21AM:

PROB 12C-OR  
(01-12-09)

UNITED STATES DISTRICT COURT

for  
DISTRICT OF OREGON

PETITION FOR WARRANT  
AND  
ORDER TO SHOW CAUSE

U.S.A. vs. JOHN TIMOTHY STITES

Docket No. 0979 3:04CR00349-001-BR

Petition on Probation and Supervised Release

COMES NOW MATTHEW K FREUDENBERG, PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of John Timothy Stites, who was convicted of Felon in Possession of a Firearm and placed on supervision by The Honorable Anna J. Brown sitting in the court at Portland, Oregon, on the 12th day of September, 2005. Defendant was sentenced to 100 months custody of the Bureau of Prisons, to be followed by a 3-year term\* of supervised release, and the general terms and conditions theretofore adopted by the court were imposed.

\*Term of supervised release commenced on August 3, 2012.

RESPPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

Violation of Standard Condition No. 7 - Failing to submit a written monthly report within the first 5 days of each month and failing to report to the probation officer. On October 19, 2012, a request was submitted to the Western District of Washington (WD/WA), U.S. Probation Office, Seattle, to transfer supervision to their district so Stites could reside with his mother. The WD/WA U.S. Probation Office authorized travel to their district pending acceptance of supervision. Stites had a Washington Department of Corrections probation violation warrant and a pending charge in Kittitas County, Washington, to resolve. Stites resolved his pending court matters and reported regularly to his state probation officer. On December 13, 2012, the WD/WA U.S. Probation Office denied his request to transfer to their district, as Stites married Alicia Tosoya and requested to relocate to the District of New Mexico (D/NM) to reside with his new wife. On January 15, 2013, a request was submitted to transfer Stites' supervision to the D/NM. On February 14, 2013, D/NM U.S. Probation Officer denied Stites request to transfer to their district, to be revisited in 6 months, if Stites remained compliant with his conditions. Stites continued to reside at 6718 5<sup>th</sup> Avenue NW, Seattle, WA, 98117, with his mother.

Stites failed to submit written reports for the months of January and February 2013. On February 27, 2013, John Fenton, Stites' Washington Department of Corrections Probation Officer, advised that he had obtained a warrant for Stites' arrest, as Stites had absconded supervision. On February 27, 2013, this officer tried to call Stites. I also attempted to call his wife, but her number is disconnected. I called his mother and requested she have Stites call me. Stites has not called to report. On March 8, 2013, I attempted to call Stites, but was unable to make contact with him. I left his mother a voicemail on her phone to have him call me. Stites has not returned my calls. On March 9, 2013, I sent Stites a letter to his address in Seattle, to report on March 13, 2013, at 2 p.m. He failed to report as directed.

**RECOMMENDED ACTION:** Based upon the above allegations, probable cause has been established that a violation of supervised release has been committed. It is recommended the Court order the issuance of a Warrant and Order to Show Cause why Stites' term of supervised release should not be revoked.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 14, 2013.

Respectfully,

Matthew K. Freudenberg  
Matthew K. Freudenberg  
U.S. Probation Officer

ORDER OF THE COURT

Considered and ordered this 15 day of March, 2013, and  
ordered filed and made a part of the records in the above case.

Anna J. Brown  
The Honorable Anna J. Brown  
U.S. District Judge

21AM:

PROB 19  
(Rev 5/93)

UNITED STATES DISTRICT COURT

for

District of Oregon

U.S.A. vs JOHN TIMOTHY STITES

Docket No. 0979 3:04CR00349-001-BR

TO: Any U.S. Marshal or any other authorized officer

WARRANT FOR ARREST OF PROBATIONER/SUPERVISED RELEASEE

You are hereby commanded to arrest the within-named probationer/supervised releasee and bring him or her, forthwith, before the United States District Court to answer charges that he or she violated the conditions of his or her supervision imposed by the court.

NAME OF PROBATIONER/SUPERVISED RELEASEE  
John Timothy Stites

SEX M RACE W-Non-Hispanic origin AGE 34

ADDRESS (STREET, CITY, STATE)

SENTENCE IMPOSED BY (NAME OF COURT)  
U.S. District Court, Portland, Oregon

DATE IMPOSED  
September 12, 2005



TO BE BROUGHT BEFORE (NAME OF COURT, CITY, STATE)  
U.S. District Court, Portland, Oregon

Mary L. Moran, Clerk of the Court  
CLERK

s/Janett Cubias  
(BY DEPUTY CLERK)

03/15/2013  
DATE

RETURN

Warrant received and executed.

Date Received

Date Executed

EXECUTING AGENCY (NAME AND ADDRESS)

NAME

(BY)

DATE

<sup>1</sup>Insert designation of officer to whom the warrant is issued, e.g., "any United States Marshal or any other authorized officer;" or "United States Marshal for \_\_\_\_\_ District of \_\_\_\_\_;" or "any United States Marshal;" or "any Special Agent of the Federal Bureau of Investigation;" or "any United States Marshal or any Special Agent of the Federal Bureau of Investigation;" or "any agent of the Alcohol Tax Unit."

21AM;

#1672640  
84903



U.S. Department of Justice  
United States Marshals Service

**DETAINER**  
**BASED ON VIOLATION OF PROBATION AND/OR SUPERVISED RELEASE**

United States Marshal  
Western District of Washington  
(District)

700 Stewart Street, Suite 9000  
Seattle, WA 98101-1271  
206 370-8652  
(Return Address and Phone)

**BOOKED**

NOV - 7 2013

**KING COUNTY JAIL**  
**KENT DIVISION**

Please type or print neatly:

TO: REGIONAL JUSTICE CENTER  
620 W. JAMES  
KENT, WA 98035  
ATTN: RECORDS

DATE: 11/07/2013

SUBJECT: SITITES John Timothy

AKA: DERRI Christopher

DOB/SSN: \_\_\_\_\_

REF. # BA#213029866

USMS #: GB311-065

CR #: \_\_\_\_\_

Please accept this Detainer against the above-named subject who is currently in your custody. The United States District Court for the Western District of Washington has issued an arrest warrant charging the subject with violation of the conditions of probation and/or supervised release.

Prior to the subject's release from your custody, please notify this office at once so that we may assume custody if necessary. If the subject is transferred from your custody to another detention facility, we request that you forward our Detainer to said facility at the time of transfer and advise this office as soon as possible.

The notice and speedy trial requirements of the Interstate Agreement on Detainers Act do NOT apply to this Detainer, which is based on a Federal probation/supervised release violation warrant.

Please acknowledge receipt of this Detainer. Please provide one copy of this Detainer to the subject and FAX one copy to this office at 206-370-8674.

FAX No. \_\_\_\_\_

RECEIPT	
Date:	<u>11-12-13</u>
Signed:	<u>J. Bernay JSO</u>
By:	<u>Jeff Bernay</u>
Title:	<u>Corrections Officer</u>

Very truly yours,

David Y. Miller  
(Signature)

DAVID Y. MILLER (Acting) U.S. MARSHAL  
(Name and Title)

Requested by: MICHELLE HAMILTON, DUSM

MICHAEL C. ORMSBY  
United States Attorney  
Eastern District of Washington  
ALISON L. GREGOIRE  
Assistant United States Attorney  
402 E. Yakima Ave., Suite 210  
Yakima, WA 98901  
Telephone: (509) 454-4425

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, )  
Plaintiff, ) NO: 13-CR-4346-JPH  
vs. )  
JOHN TIMOTHY STITES, ) NOTICE OF APPEARANCE  
Defendant. )  
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Plaintiff, United States of America, by and through Michael C. Ormsby, United States Attorney for the Eastern District of Washington, and Alison L. Gregoire, Assistant United States Attorney for the Eastern District of Washington, hereby enters this Notice of Appearance on behalf of the United States of America.

DATED this 15<sup>th</sup> day of November 2013.

MICHAEL C. ORMSBY  
United States Attorney

s\ Alison L. Gregoire  
ALISON L. GREGOIRE  
Assistant United States Attorney

## Notice of Appearance

**United States District Court, Eastern District of Washington**  
**Magistrate Judge James P. Hutton**  
**Yakima**

**USA v. JOHN TIMOTHY STITES**

**Case No. MJ-13-4346-JPH**

**Rule 5 Initial Appearance on Supervised Release**

**11/18/2013**

**Violation:**

<input checked="" type="checkbox"/> Pam Howard, Courtroom Deputy [Y]	<input checked="" type="checkbox"/> Benjamin Seal, US Atty
<input checked="" type="checkbox"/> Beckie Nichols, US Probation / Pretrial Services Officer	<input checked="" type="checkbox"/> Alex B. Hernandez, III, Defense Atty
<input checked="" type="checkbox"/> Defendant present in custody USM	<input checked="" type="checkbox"/> Interpreter <b>NOT REQUIRED</b>

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<input checked="" type="checkbox"/> USA Oral Motion for Detention	<input checked="" type="checkbox"/> Rights given
<input type="checkbox"/> USA not seeking detention	<input checked="" type="checkbox"/> Acknowledgment of Rights filed
<input checked="" type="checkbox"/> Financial Affidavit (CJA 23) filed	<input checked="" type="checkbox"/> Defendant received copy of charging document
<input checked="" type="checkbox"/> The Court will appoint the Federal Defenders	<input checked="" type="checkbox"/> Defendant waived reading of charging document
<input type="checkbox"/> Based upon conflict with Federal Defenders, the Court will appoint a CJA Panel Attorney	<input type="checkbox"/> Charging document read in open court
<input type="checkbox"/> Conditions of Release Imposed	<input type="checkbox"/> Pre-Trial Services Report ordered
<input type="checkbox"/> 199C Advice of Penalties/Sanctions	<input checked="" type="checkbox"/> Waiver of Rule 5 Hearings filed
<input type="checkbox"/> Ordered Release on Personal Recognizance; 199C Not Required	<input checked="" type="checkbox"/> Court Ordered Removal to Charging District

**REMARKS**

Defendant appeared and was assisted by counsel and advised of their rights and the allegations contained in the charging document.

**The Court ordered:**

1. REMOVAL of the defendant to the charging district.
2. Defendant shall be detained by the U. S. Marshal until further order of the Court.

<b>Identity Hrg:</b>	<i>Waived by Defendant</i>
<b>Bail Hrg:</b>	<i>Waived by Defendant; USA's Motion for Detention is granted.</i>
<b>Probable Cause Hrg:</b>	<i>Waived by Defendant</i>

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,	No. MJ-13-4346-1
Plaintiff,	ORDER OF REMOVAL
vs.	<input checked="" type="checkbox"/> MOTION GRANTED
JOHN TIMOTHY STITES,	<b>(ECF No. 4)</b>
Defendant.	<b>---- ACTION REQUIRED ----</b>

Date of hearing: 11/18/2013

Petition for action: Post-conviction

Defendant was advised of, and acknowledged, Defendant's rights.

Defendant, individually and through counsel, waived the right to an identity hearing, pursuant to Rule 5. Defendant's waiver is accepted as knowing and voluntary.

Defendant, individually and through counsel, waived the right to a probable cause hearing. Defendant's waiver is accepted as knowing and voluntary.

Defendant, individually and through counsel, waived Defendant's right to a bail hearing. Defendant's waiver is accepted as knowing and voluntary. The agreement not to contest detention at this time is without prejudice to the Defendant requesting a bail hearing in the District of Oregon.

**IT IS ORDERED:**

1. Defendant is committed to the custody of the United States Marshal for detention until further order of the court, and for removal as soon as reasonably possible to the District of Oregon.

2. Defendant shall be made reasonably available for communication with court-appointed counsel.

3. Until appointment of counsel in the charging district, all notices shall be sent to the Federal Defenders of Eastern Washington, N. 10 Post St., Suite 700, Spokane, WA 99201.

DATED November 18, 2013.

s/James P. Hutton  
JAMES P. HUTTON  
UNITED STATES MAGISTRATE JUDGE

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

SEAN F. McAVOY, CLERK DEPUTY  
YAKIMA, WASHINGTON

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

The undersigned defendant does hereby acknowledge: I appeared before a United States Magistrate Judge this date and have been advised as follows:

1) Of the charge or charges placed against me and the maximum penalty provided by law, and I acknowledge receipt of a copy of the Supervised Release Violation Report, which specifically sets forth the allegations;

2) That I have been advised of the maximum penalty provided by law;

3) My right to remain silent at all times and if I make a statement it can be used against me;

4) My right to retain my own counsel, and if I am without funds, to have counsel appointed to represent me in this matter;

5) My right to a hearing before the judicial officer where the Supervised Release was imposed and to be confronted by the government's witnesses, and I am entitled to have witnesses attend on my behalf;

6) My right to a hearing on the warrant for removal to ascertain that I am the person named in the Violation Report or if I wish I can waive this hearing in writing;

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2) That if the United States moves for a detention hearing, it must be held within three days  
3 and that I have the right to be represented by counsel at such hearing, but that the United States has  
4 determined to defer asking for a detention hearing until my first appearance in the charging district.

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Dated this 18 day of NOV., 2013.

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A handwritten signature in black ink, appearing to read "J. M.," is written over a horizontal line. Below the line, the word "Defendant" is printed in a small, sans-serif font.

ACKNOWLEDGMENT OF NOTICE OF RIGHTS  
RULE 5/SUPERVISED RELEASE CONDITIONS

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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

NOV 18 2013

SEAN F. McAVOY, CLERK  
YAKIMA, WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN TIMOTHY STITES,

Defendant.

) MJ-13-4346-1

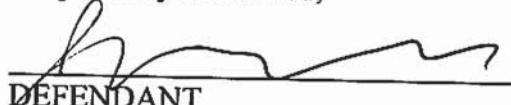
) Defendant's Assertion of  
Fifth and Sixth Amendment  
Rights

TO: MICHAEL C. ORMSBY, UNITED STATES ATTORNEY

I, the above-named defendant, hereby assert my rights under the Fifth and Sixth Amendments of the United States Constitution, including but not limited to my rights to remain silent and to have counsel present at any and all of my interactions with the government or others acting on the government's behalf. I do not wish to, and will not, waive any of my constitutional rights except in the presence of counsel. I do not wish to have, nor do I consent to, any contact with any government official, including but not limited to law enforcement agents, except through my counsel. I do not want the government or others acting on the government's behalf to question me, or to contact me seeking a waiver of any rights, unless my counsel is present. The Government should so instruct its agents.

DATED this 18 day of NOV., 2013.

Respectfully Submitted,

  
DEFENDANT

Defendant's Assertion of  
Fifth and Sixth Amendment Rights

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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT  
DISTRICT OF WASHINGTON

NOV 18 2013

SEAN F. McAVOY, CLERK  
YAKIMA, WASHINGTON DEPUTY

UNITED STATES OF AMERICA, )  
Plaintiff, ) Magistrate Judge  
) No. MJ-13-4346-1  
Vs. )  
JOHN TIMOTHY STITES, ) WAIVER OF RULE 5 HEARINGS  
Defendant. )  
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The undersigned defendant does hereby acknowledge: I appeared on this date in the  
Eastern District of Washington, was advised of the charge(s) pending against me in the  
prosecuting district, and was informed of my rights to:

(1)remain silent, knowing that if I make a statement, it can be used against me; (2)retain  
counsel or have counsel appointed for me; (3) an identity hearing to determine if I am the person  
sought by the prosecuting district; and (4) plead guilty to the charge in this district, if I and the  
United States Attorneys in this district and in the requesting district agree.

If this matter is proceeding by **COMPLAINT**:

**I WAIVE (GIVE UP) MY RIGHT TO A(N):**

- identity hearing in this district
- preliminary examination in this district
- bail hearing in this district

If this matter is proceeding by **INDICTMENT**:

**I WAIVE (GIVE UP) MY RIGHT TO A(N)**

- identity hearing in this district
- bail hearing in this district

If this matter is proceeding by **PETITION**:

**I WAIVE (GIVE UP) MY RIGHT TO A(N)**

- identity hearing in this district
- probable cause hearing in this district
- bail hearing in this district

If this matter is proceeding by **WARRANT**:

**I WAIVE (GIVE UP) MY RIGHT TO A(N)**

( ) identity hearing in this district  
( ) bail Hearing in this district

and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge is pending against me.

As to those hearings which are waived in this district, other than the identity hearing, I

**RESERVE** the right to have those hearings in the prosecuting district.

11/18/13

Defendant

Defense Counsel

Interpreted by (if applicable):

(Sign and Print Name)

**WAIVER OF RULE 5 HEARINGS**